

REMARKS

Claims 1-10, 16-31 and 37-44 were pending in the present application. Claims 16-21 and 37-42 stand withdrawn. Claims 1, 3, 4, 7, 9, 10, 22, 24, 25, 28, 30, 31 and 43 are amended and claims 45-52 are added herein. Accordingly, claims 1-10, 16-31 and 37-52 are currently pending. No new matter has been added. Applicant respectfully requests reconsideration of the claims in view of the following remarks.

(1) The Office Action rejected claims 1-10, 43, and 44 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Independent claim 1 has been amended to recite “a method of transforming a wireless network,” wherein the method steps are carried out “using a computer system.” The amendment clarifies that the steps are not mental steps performed within the mind of a person. Rather, claim 1 positively identifies the apparatus that accomplishes the claimed method steps. For example, the last element of claim 1 affirmatively requires that the computer system is used to select an area of the wireless network for capital investment. Furthermore, claim 43, now independent, requires “deploying additional equipment to a base transceiver station” to modify the wireless network, which is transforming underlying subject matter to a different state or thing. Accordingly, the claims are directed to statutory subject matter and meet the requirements of 35 U.S.C. § 101.

(2) The Office Action rejected claims 1, 7, 9, 22, 28, and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1 and 22 have been amended such that the “investment return” is based upon the three previous claim elements, thus relating these elements to the remainder of the claim elements.

Claims 7, 9, 28 and 30 have been amended to change “recover” to “reduce” to clarify these claim elements.

Claims 9 and 30 have been amended to recite “determining the investment return of a sector,” as recommended by the Office Action.

Accordingly, claims 1, 7, 9, 22, 28 and 30 are definite and meet the requirements of 35 U.S.C. § 112, second paragraph.

(3) The Office Action rejected claims 1, 4, 22, 25, 43, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Adduci, Jr. et al., U.S. Patent No. 7,343,334 (“Adduci”) in view of Elliot, U.S. Patent No. 7,158,790 (“Elliot”). The Office Action rejected claims 2, 3, 23, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Adduci in view of Elliot and Official Notice. The Office Action rejected claims 5-10 and 26-31 under 35 U.S.C. § 103(a) as being unpatentable over Adduci in view of Elliot and Weller et al., U.S. Patent No. 7,107,224 (“Weller”). Applicant respectfully traverses these rejections.

Firstly, independent claim 1 recites “using a computer system for determining a subscriber profit proxy for a plurality of subscribers in the wireless network.” The cited prior art, taken alone or in combination, does not teach or suggest this claim element. The Office interprets “net present value” (NPV) of Adduci as analogous to the subscriber profit proxy of claim 1. *See* Office Action, p. 5. Adduci, however, defines NPV as the difference between an initial investment in an enhanced service and the present value of future net cash flow from the

enhanced service over a period of time. *See, e.g., Adduci*, col. 16:12-17. In contrast, a subscriber profit proxy as used in claim 1 relates to the amount of profit expected to be received from a plurality of subscribers. Thus, while claim 1's subscriber profit proxy is based on expected profits from subscribers, Adduci's NPV is based on the value of an enhanced service, not on profits from subscribers.

Secondly, independent claim 1 recites "using the computer system for determining a number of minutes of use over a period of time for one or more of the subscribers." The Office Action acknowledges that Adduci does not explicitly disclose this claim element, but then relies on Elliot for such disclosure. *See* Office Action, p. 6. The Office Action interprets "demand for service" of Elliot as indicative of the number of minutes of use of the subscribers in claim 1. *See id.* Elliot, however, is using actual demand for service by devices in real-time as an indication of quality of service coverage provided by the wireless network. *See, e.g., Elliot*, col. 2:33-57. In contrast, claim 1 requires determining a number of minutes of use over a period of time for one or more subscribers. Thus, while claim 1's number of minutes of use over a period of time is just that, number of minutes of use, Elliot's demand for service is an indication of quality of service, not number of minutes of use.

Thirdly, independent claim 1 recites that "the investment return is based upon the subscriber profit proxy for the plurality of subscribers, the number of minutes of use over the period of time for the one or more of the subscribers, and the service quality metric for the one or more sectors in the wireless network." The cited prior art, taken alone or in combination, does not teach or suggest this claim element. The Office Action interprets "return on investment (ROI)" of Adduci as analogous to the investment return per sector of claim 1. *See* Office Action, p. 5. Nowhere, however, does Adduci teach or suggest that the ROI is based on the three factors

required by claim 1: (1) subscriber profit proxy, (2) number of minutes of use over a period of time, and (3) service quality metric for the one or more sectors.

Accordingly, Applicant respectfully asserts that independent claim 1 is patentable over the cited prior art.

Claims 2-10 depend from and add further limitations to claim 1. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Independent claims 22 and 43, while differing in claim scope, recite similar limitations to those discussed above with respect to claim 1. Accordingly, for the same reasons discussed above, Applicant respectfully asserts that independent claims 22 and 43 are patentable over the cited prior art.

Claims 23-31 and 44-52 depend from and add further limitations to claims 22 and 43, respectively. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicant has made a diligent effort to place the claims in condition for allowance. Should there remain unresolved issues that require adverse action, however, it is respectfully requested that the Examiner telephone Applicant's Attorney, Brian A. Carlson, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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